

Remarks

Claims 1-37 are pending in this application, claims 12-23 and 25-29 of which stand withdrawn from consideration. Applicant will address the numbered paragraphs of the Office Action in order, noting that a number of the numbered paragraphs such as 1, 2, 8, 10, 14, 16 and 17 do not appear to require a specific response.

Numbered paragraph 3 of the Office Action raises a drawing objection under 37 C.F.R. 1.83(a) on the basis that an airflow monitor 34 and an airflow sensor are not shown in the drawing. This material was specifically incorporated by reference on page 7, lines 21-23, for the sake of brevity. In view of the objection, new Drawing Sheet 2 including new Figures 2 and 3 (each essentially a duplicate of Figure 4 of U.S. Patent 5,674,125 to Xia et al.) are now explicitly shown in the application with the change that the Xia et al. reference numerals are removed and the present applications reference numerals 32, 34, 84 and 86 are specifically identified. If the Examiner requires, the remainder or a portion thereof of the incorporated U.S. Patent 5,674,125 to Xia et al. can be moved into the application including additional drawing figures if necessary. This is believed to resolve the drawing objections to the airflow monitors in numbered paragraph 3 of the Office Action.

Numbered paragraph 3 of the Office Action also raises an objection stating that a divider wall must be shown between the bathroom exhaust airstream path and the return airstream path. Applicant traverses this drawing objection. The application clearly states that "a divider wall 50 is provided in the exhaust airflow path 40 to segregate the bathroom exhaust airstream 26 from the return airstream 22 so that the bathroom exhaust 26 is directed to a first heat acquiring portion 52 of the heat exchanger 12 and the return airstream 22 is directed to a second heat acquiring portion 54 of the heat exchanger 12" (application page 6, lines 18-23). This description is further supported in the Specification on page 7, line 26, which states "essentially, the system 10 is sectionalized on the entering exhaust air side into the bathroom exhaust airstream 26 and the return airstream 22 by the divider wall 50." Furthermore, Figure 1 clearly shows a divider wall 50 performing this segregating function. Applicant submits that

the divider wall is present in the drawing as required and is adequately described in the Specification so that its function can be understood. Applicant will be happy to provide additional views should the Examiner require but submits that the divider wall as presently shown suffices to meet the requirements of 37 C.F.R. 1.83(a).

Regarding numbered paragraph 4, the drawings are objected to because reference characters 32 and 33 are stated to appear to have been used to designate damper 32 in Figure 1 and because reference characters 84 and 86 appear to have been both used to designate damper 84. The drawing sheet 2 containing Figures 2 and 3 shows a damper 32 and an airflow monitor 34 as well as a damper 84 and an airflow sensor 86 as is further described in the incorporation by reference of U.S. Patent 5,674,125 to Xia et al. Further details from this patent can be included in the present application should it be desired but applicant submits that the inclusion of new Figures 2 and 3 is sufficient to resolve this drawing objection.

Numbered paragraph 5 objects to the Abstract of the Disclosure for grammatical reasons relative to a run on sentence and the use of the word "comprises". The Abstract has been rewritten to remove the word "comprises" and breakup the second sentence. This is believed to resolve the objection to the Abstract.

Numbered paragraph 6 appears to require no response.

Numbered paragraph 7 of the Office Action raises claim objections relative to readability, clarity and readability and grammatical correctness and readability. Applicant respectfully traverses the rejection of claim 1, claim 30 and claim 34 relative to the requirement that "for" should be inserted immediately proceeding transferring. The Examiner has provided no legal requirement to support this objection and applicant submits that the claims are clear and precise as written. Applicant further submits that inclusion of the word "for" is a significant change which must be supported by further explanation from the Examiner as to its necessity prior to a such change being implemented. Reconsideration and withdrawal of this objection relative to claims 1, 30 and 34 is requested.

Further with regard to numbered paragraph 7 and relative to the objection to the modulation device of claim 6, applicant has amended this claim so that it agrees with the wording of the same element as described in claim 5.

Relative to the objections relative to "motivating force" relative to claims 8, 10, 33 and 37, applicant has amended these claims to clarify that this motivating force has no previous antecedent basis in the claims.

Numbered paragraph 9 of the Office Action raises claim rejections relative to 35 U.S.C. Section 112.

With regard to the rejection of claim 5 under 35 U.S.C. Section 112, applicant has deleted the language "such as a damper and a first airflow monitor" which is believed to resolve the rejection of claim 5 and 6 under 35 U.S.C. Section 112.

With regard to the rejection of claim 8 under 35 U.S.C. Section 112, applicant has amended claim 8 to specify that the fan is providing a motivating force for air as opposed to for a path as is required or suggested by the Examiner in the rejection. Similar amendments were made to claims 33 and 37 to resolve the rejections under 35 U.S.C. Section 112 to claims 8, 33 and 37.

Relative to the rejection of claim 11 under 35 U.S.C. Section 112, applicant has amended claim 11 to describe the rotating energy recovery wheel and thereby resolve this rejection.

Relative to the various rejections to claim 24 under 35 U.S.C. Section 112, claim 24 has been rewritten to specify a fan rather than means for handling air. Relative to the rejection of the extracting means and the transferring means both referring to the same element, applicant respectfully traverses this rejection. Whereas these claim elements do refer to a common element, for example the air-to-air heat exchanger 12, these claims are means plus function claims and refer to the function, for example of extracting heat from the airflow path 16 and, after rotation of the wheel into the airflow path 14, transferring the extracted heat to that airflow path in the heat providing portion 18. It is submitted that each of these claim elements refers to a different function of the heat exchanger 12 and thus the double recitation rejection of the Examiner is unfounded and is requested to be reconsidered and withdrawn.

Relative to the rejection of claims 32 and 36 under 35 U.S.C. Section 112, these claims have been amended to delete the language relative to operably connecting the relief damper with the airflow control damper. This is believed to resolve the rejection of these claims.

Relative to numbered paragraph 11, claims 1-4, 10, 11 and 24 stand rejected under 35 U.S.C. Section 102(b) in view of Taylor.

Applicant traverses the rejection of claim 1 under 35 U.S.C. Section 102 in view of Taylor. Taylor does not show a heat recovery device transferring heat between three airflow paths: the bath exhaust airflow path, the return airflow path and the outside airflow path. The two inlets 24 relied on by the Examiner are clearly shown as merging into a common airflow path thus fail to meet the requirement of a heat recovery device transferring heat between three airflow paths. In this regard, applicant also traverses the rejection of claim 4 inasmuch as the requirement of a heat transfer device including a first portion for exchanging heat with a return airflow path and a second portion for exchanging heat with a bathroom exhaust flow path is not shown by the merged paths of Taylor. Applicant also notes that the claim requirements of claim 1 relative to "bathrooms" are not met by Taylor.

Applicant also traverses the rejection of claim 11 both in its original and its amended form inasmuch as Taylor does not meet the requirements of a heat recovery device which sequentially extracts heat first from a bathroom exhaust airflow path and then from a return airflow path. As noted above, Taylor does not show three airflow paths arranged as claimed.

Applicant also traverses the rejection of claim 24 inasmuch as Taylor shows two airflow paths not the three (bathroom exhaust airflow path, building exhaust airflow path and outside airflow path) as is required by claim 24 in both its original and its amended forms.

For these reasons, claims 1-4, 10, 11 and 24 are submitted to be novel and patentable in view of Taylor, the rejection of claims 1-4, 10, 11 and 24 under 35 U.S.C. Section 102 in view of Taylor is requested to be reconsidered and withdrawn.

Numbered paragraph 12 rejects claim 1-11, 30-32 and 34-36 under 35 U.S.C. Section 102(b) in view of SU 320,676 to Dzerzhinskii. These rejections are traversed. Only four translated sections of Dzerzhinskii are provided, the first of which states that the efficiency and reliability of something is increased by affecting the cleaning and concentric zones. No description is provided relative to bathroom exhaust airflow paths, return airflow paths and outside air paths in a heat recovery device transferring heat between these airflow paths. The only statement that can be made relative to Dzerzhinskii's is that "the airflow rate is reduced through the cleaning section and increased through the rest of the packing". No conclusions can be drawn relative to the nature of the airflow path and applicant submits that Dzerzhinskii fails to meet the requirements of a bathroom exhaust airflow path and the return airflow path. Consequently, this rejection is requested to be reconsidered and withdrawn. It is also submitted that the first modulating device, the relief damper and the second modulating device of claims 5-6 are not shown. Similarly the exhaust fan of claim 10 is not shown. These claims are submitted to be independently novel and patentable in view of Dzerzhinskii.

The same comments relative to the bathroom exhaust airflow airstream path and the return airstream path made with regard to claim 1 in view of Dzerzhinskii are also relative to claims 30 and 34. Additionally, an airflow control damper and airflow monitor and a relief damper relative to claims 31 and 32 and 35 and 36 and an exhaust fan relative to claims 33 and 37 are not shown by Dzerzhinskii and these claims are all submitted to be novel and patentable in view of Dzerzhinskii.

Claims 30-37 stand rejected in numbered paragraph 13 of the Office Action under 35 U.S.C. Section 102(b) in view of Besik. Applicant respectfully traverses these rejections again noting that Besik does not disclose a bathroom exhaust and therefore fails to meet the requirements of a bathroom exhaust airstream path as is required by claims 30 and 34. Even more importantly, the heat transfer device or cooler 2 relied on by the Examiner in making this rejection does not meet the requirement of a heat transfer device transferring heat from the bathroom exhaust airstream and the return airstream path to the outside airstream flow path or the requirement of a heat transfer device

transferring heat from the outside airstream flow path to the bathroom exhaust airstream and the return airstream path. Besik clearly shows two airstreams and not the three airstreams as is required by these claims. Consequently, claims 30-37 are submitted to be novel and patentable, and the rejection of claims 30-37 is requested to be reconsidered and withdrawn.

Relative to numbered paragraph 15 of the Action, applicant respectfully traverses the rejection of claim 24 under 35 U.S.C. Section 103(a) in view of Taylor in that Taylor does not meet the requirement of means for extracting heat from the system exhaust and bathroom exhaust airflow path. As is discussed above, Taylor includes a single airflow path through the heat exchanger and does not meet this requirement. Claim 24 is submitted to be novel and patentable, and the rejection is requested to be reconsidered and withdrawn.

Based on all of the forgoing remarks and amendments, each claim of the application is submitted to be novel and patentable.

The foregoing remarks and amendments are believed to resolve each rejection and issue raised by the Office Action. Should applicant have failed to have addressed an issue or failed to completely address and issue, a telephone conference with applicant's representative is requested at the number below.

Respectfully Submitted,



William O'Driscoll  
Registration No. 33,294

Telephone Number: (608)787-2538

In the Drawings:

Please insert new Drawing Sheet 2 including Figures 2 and 3.